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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,892	12/03/2004	Eros Stivani	2545-0461	8636
7590 Harbin King & Klima 500 Ninth Street SE Washington, DC 20003		09/05/2007	EXAMINER TRUONG, THANH K	
			ART UNIT 3721	PAPER NUMBER
			MAIL DATE 09/05/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/516,892

Applicant(s)

STIVANI ET AL.

Examiner

Thanh K. Truong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 30, 2007 has been entered.
2. Applicant's cancellation of claims 2 and 16-24 is acknowledged.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dachman et al. (5,935,686) in view of Guidot et al. (EP 957043).

Dachman et al. discloses a method comprising the steps of:

advancing a continuous strip (30) of wrapping material having at least two bands (12, 14) of adhesive extending parallel with its longitudinal dimension along a predetermined path;

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cutting the strip transversely along dividing lines (18) to obtain a plurality of leaves (20) each has longitudinal edges;

associating at least one product (16) substantially central area of each leaf;

folding each leaf around a relative product and bringing together the two longitudinal edges to form a tubular sheath (figures 7a-7c and 8a-8c);

closing the ends of the tubular sheath to obtain a wrap (figure 9).

Dachman et al. discloses the claimed invention, but it does not expressly disclose the step of forming an easy tear along the longitudinal edges of the leaf (20).

Guidot et al. discloses a method of making a product wrap, wherein it includes the step of forming an easy tear (7-13 and 15 – figures 2, 4-11 and 13-29) along the longitudinal edges of the leaf (1). Guidot et al. method provides a package that is easy to opened by hand without any additional aids (column 1, lines 31-34).

Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified Dachman et al. by incorporating the step of forming an easy tear as taught by Guido et al. to provide an easy means to open the wrap package without using any additional aids.

The modified Dachman et al. by Guidot et al. further discloses the steps of:

generating, on the easy tear portion, at least one notch (8) (Guidot et al. – figure 6) on each dividing line extending parallel to the longitudinal dimension of the strip (1) and intersecting the relative line, and

generating a second notch (7) intersecting transversely a first notch (7) – Guidot et al. , Figure 4 shows the cuts (V-shaped) formed by two intersecting notches (or cuts)

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reference number (7), and it is construed that the V-shaped cut is formed by two notches intersecting transversely as recited in claim 1.

It is further construed that Figures 9 & 10 also show the first (12) and second (11 or 13) notches intersecting transversely on the easy tear portion (as in claim 1).

5. Although the modified Dachman et al. by Guidot et al. does not expressly disclose that the second notches of the two longitudinal edges transversely offset from one another so that the first notches of the two longitudinal edges are also transversely offset from one another (as recited in claim 1), it should be pointed out that in page 12 of the specification, the Applicant stated the following:

"Observing figure 4, it will be seen that the positions of the projection 13 and the indentation 12 coincide, albeit the two are marginally offset one from the other. This is how the wrap will appear in reality, as a result of the two edges 10a of the leaf 11 shifting one relative to the other when formed into a tube around the product 2. (emphasis added)

Likewise in figure 6, which illustrates the fourth embodiment of the wrap, the two indentations 12 are substantially aligned, yet slightly offset one from another."

Following the above observation revealed by the Applicant, it is construed that this phenomenon too could also happen to the modified Dachman et al. by Guidot et al..

6. It is also construed that the modified Dachman et al. by Guidot et al. clearly discloses the step of generating the first notch and the second notch being implemented before the step of folding each leaf around the relative product (column 2, lines 51-53):

*"In this embodiment the two cuts as well as the recess may be provided in the foil **before** the longitudinal seal is formed." (emphasis added)*

7. The modified Dachman et al. by Guidot et al. further discloses:

wherein the continuous strip presents second adhesive bands (24, 26 – figure 5 of Dachman et al.) extending transversely to the longitudinal dimension of the strip (30), each coinciding with a relative easy tear point (figure 4 of Guidot et al. – adhesive bands 5, 6 and notch 7) (as in claim 13);

twisting the ends of the tubular sheath to produce a sealed double twist wrap (22) (figure 9 of Dachman et al.) (as in claim 14); and

applying the first and second adhesive bands to the selfsame strip before the step of generating the notches (as in claim 15).

8. Claims 3-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dachman et al. (5,935,686) in view of Guidot et al. (EP 957043) and further in view of McBean (2,079,328).

As discussed above in paragraphs 4-7 of this office action, the modified Dachman et al. by Guidot et al. discloses the claimed invention, but did not expressly disclose an indentation and a projection on the opposite longitudinal edges presented by each leaf as recited in claim 3.

McBean discloses a method comprising the step of generating a second notch (22) coinciding with the first notch (14) and serving to creating an indentation (22) and a projection (20) on the opposite longitudinal edges presented by each leaf (16). McBean

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method provides a package in which the wrapper can be easily and quickly removed (lines 15-18).

Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified Dachman et al. and Guidot et al. by incorporating the step of creating an indentation and a projection on the opposite longitudinal edges presented by each leaf as taught by McBean to provide a package in which the wrapper can be easily and quickly removed.

the second notch presents an outline substantially of "U" shape (figure 5 of McBean)(as in claim 7);

cutting the strip transversely along the dividing line comprises the subsidiary steps of making two distinct cuts along the selfsame line, each extending from the second notch toward a longitudinal edge of the strip (2) (figure 5 of McBean shows the two distinct cuts extending from the second notch (20) toward the top and bottom edges of the strip) (as in claim 9);

the step of generating at least one first notch (14) parallel to the longitudinal dimension of the strip (2) is implemented before the step of cutting the strip transversely along the dividing line (figure 5 of McBean)(as in claim 10);

establishing an easy tear comprises the step of generating at least on segment (18, 19) of broken line appearance positioned to coincide with the transverse dividing line (figure 7 of McBean)(as in claim 11); and

the broken line segment (18, 19) extends the full length of the transverse cut made across the strip (figure 7 of McBean)(as in claim 12).

Regarding claims 4-6 and 8, the examiner construes that those limitations as recited in claims 4-6 and 8 are the obvious variations of the same invention (if they are distinct inventions, they would have been restricted). Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified the method of Dachman et al., Guidot et al., and McBean to include the steps as recited in claims 4-6 and 8, since it is well known and within the general skill of a worker in the art to select a known design configuration or steps on the basis of its suitability for the intended use as matter of obvious design choice.

Response to Arguments

9. Applicant's arguments filed July 30, 2007 have been fully considered but they are not persuasive.

10. In response to the Applicant's argument that:

"Guidot discloses a method of making a product wrap with an easy tear formed along the longitudinal edges of the leaf. However Guidot does not disclose or suggest positioning the second notches of each longitudinal edge transversely shifted from one another while folding each leaf around a respective product and bringing together the two longitudinal edges to form a tubular sheath.

Indeed, Guidot discloses generating a second notch only on one longitudinal edge, and not on each longitudinal edge intersecting each first notch. Only in figure 4 the second notch is visible on both the longitudinal edges but, as clearly shown in figure 2, they coincide when the [oaf is wrapped around the product. In this way the two first notches realized on both the longitudinal edges coincide with one another and are not transversely offset from one another', as required by amended claim 1.",

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this is not found persuasive, because as stated in paragraph 5 above, it is construed that the observed phenomenon occurred in the Applicant's method could also be happened to the modified Dachman et al. by Guidot et al..

11. In response to the Applicant's argument that:

"Moreover in claim 1, the steps of generating the first and the second notches are implemented before folding each leaf around the relative product. By contrast, as clearly disclosed on column 5 paragraph 30, Guidot provides the second notches (13) before sealing the leaf around the product, and generates the first notches (9 and 12) after the product has been wrapped."

this is not found persuasive, because as stated in paragraph 6 above, it is construed that the modified Dachman et al. by Guidot et al. clearly discloses the step of generating the first notch and the second notch being implemented **before** the step of folding each leaf around the relative product (column 2, lines 51-53)

12. In response to the Applicant's argument that:

"McBean discloses forming an easy tear along the longitudinal edges of the leaf, but does not disclose or suggest placing the second notches transversely offset from one another so that the first notches are also transversely offset from one another, as required in amended claim 1."

this is not found persuasive for the following reasons:

It should be noted that McBean was relied upon for the teaching of an indentation and a projection on the opposite longitudinal edges presented by each leaf as recited in claim 3.

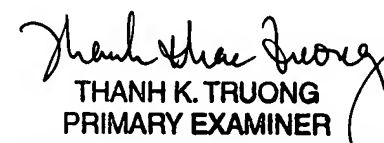
Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K. Truong whose telephone number is 571-272-4472. The examiner can normally be reached on Mon-Thru 8:00AM - 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

tkf
September 3, 2007.


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